

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

DONALD REYNOLDS,

Petitioner,

v.

CIVIL ACTION NO. 5:20-cv-00729

D.L. YOUNG, Warden,
FCI BECKLEY,

Respondent.

ORDER

Pending is Petitioner Donald Reynolds' Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 [Doc. 1], filed November 6, 2020. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R on November 17, 2020. Magistrate Judge Tinsley recommended that the Court dismiss this matter without prejudice inasmuch as the issues raised in Mr. Reynolds' habeas petition concerning his inmate mail and grievances are not appropriately raised in a Section 2241 habeas proceeding, but may be addressed in Mr. Reynolds' separate *Bivens* action.¹

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C.

¹ Upon concluding that Mr. Reynolds' claims are more appropriately brought in a civil rights complaint pursuant to *Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), Magistrate Judge Tinsley directed the opening of a separate civil action to appropriately address the same. [See Doc. 8].

§ 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*”) (emphasis added). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on December 4, 2020. On November 25, 2020, Mr. Reynolds filed a “Concurrence with Magistrate’s Proposed Findings and Recommendation” [Doc. 12], asserting that he has no objections.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 9**], **DISMISSES** Mr. Reynolds’ Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 [**Doc. 1**], and **DISMISSES** this matter without prejudice.²

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTERED: December 8, 2020



Frank W. Volk
United States District Judge

² Following the issuance of the PF&R, Mr. Reynolds filed a “Motion to Preserve All Exhibit(s) Evidence in Case,” on November 23, 2020. [Doc. 11]. Inasmuch as the Motion concerns Mr. Reynolds’ claims in his separate *Bivens* action and has been docketed in the same [See Doc. 8 in Civil Action No. 5:20-cv-753], the Court need not address it herein. Accordingly, the Motion [Doc. 11] is **DENIED AS MOOT**.